

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SANDRA LYNN SCHRADER,

Defendant-Appellant.

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UNPUBLISHED

November 21, 1997

No. 196597

Grand Traverse Circuit Court

LC No. 95-006864 FH

Before: Jansen, P.J., and Fitzgerald and Young, JJ.

MEMORANDUM.

Defendant appeals by leave granted from her plea-based conviction for false pretenses with intent to defraud over \$100, MCL 750.218; MSA 28.415, and her sentence of five to ten years imprisonment. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that her five-year minimum sentence violates the principle of proportionality. We disagree. The sentence is proportionate to the seriousness of the offense and the circumstances of the offender, particularly in light of the benefit bestowed upon defendant by the plea bargain, the fact that the sentencing guidelines do not adequately reflect the amount of money taken by defendant or the extent of her criminal activity, and the fact that defendant stole the life savings of an eighty-nine-year-old man residing in a nursing home who had entrusted defendant to look after his financial affairs. *People v Houston*, 448 Mich 312; 532 NW2d 508 (1995); *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990); *People v Duprey*, 186 Mich App 313, 319; 463 NW2d 240 (1990).

Defendant invites us to find amongst the rights guaranteed by due process the right to be sentenced within the sentencing guidelines recommendation whenever a defendant enters a guilty plea. We decline the invitation. The guidelines do not convey substantive rights, *People v Potts*, 436 Mich 295, 303; 461 NW2d 647 (1990), and do not have the force of law, *People v Mitchell*, 454 Mich 145, 175; 560 NW2d 600 (1997).

Defendant argues that the trial court erroneously ordered her to pay restitution because she presently lacks the financial resources to pay the ordered restitution and because her incarceration

prevents her from acquiring the necessary resources. This argument was rejected in *People v Guajardo*, 213 Mich App 198, 201-202; 539 NW2d 570 (1995). Defendant's request for relief from the order of restitution is premature. *Id.*, p 202.

Affirmed.

/s/ Kathleen Jansen

/s/ E. Thomas Fitzgerald

/s/ Robert P. Young, Jr.